IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 13TH AUGUST 2007 / 22ND SRAVANA 1929

Crl.MC.No. 2583 of 2007()

CC.105/2005 of JUDL.MAGISTRATE OF FIRST CLASS COURT, PAYYANNUR

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PETITIONER: ACCUSED NO.9

GIRISH P.V.,
S/O. P. KANNAN, P.O. ANNUR, PAYYANNUR,
KANNUR DISTRICT.

BY ADV. SRI.M.SASINDRAN
SRI.K.P.HARISH

RESPONDENTS: COMPLAINANT

1. STATE REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. DR.S. RAJEEV,
S/O. SREEDHARAN, AGED 47 YEARS,
KARUVANCHERY, P.O. PAYYANNUR
KANNUR DISTRICT.

3. DR.BALAMANI, AGED 43 YEARS,W/O.S.RAJEEV
KARUVANCHERY, P.O. PAYYANNUR
KANNUR DISTRICT.

BY PUBLIC PROSECUTOR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 13/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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Crl.M.C. No.2583 Of 2007

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Dated this the 13th day of August, 2007

ORDER

The petitioner is the 2nd accused in a prosecution for offences punishable, inter alia under Secs.427 and 447 read with 149 IPC. The co-accused have already faced trial, found not guilty and acquitted. The petitioner was employed abroad and he could not appear before the court and hence the case against him split up and it is posted in the list of long pending cases. Coercive processes has been issued by the learned Magistrate to procure the presence of the petitioner, which is chasing the petitioner now.

2. According to the petitioner, he is absolutely innocent. His absence was not intentional and was on account of reasons beyond his control, it is submitted. He is willing to surrender before the learned Magistrate and seek regular bail, but he apprehends that his application for bail may not be considered by the learned Magistrate, in accordance with law and expeditiously. The petitioner further submits that the matter is settled between the parties. Inasmuch as non bailable offences are also included, the learned counsel for the petitioner prays that the proceedings may

be quashed invoking the jurisdiction under Sec.482 Cr.P.C as explained in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386]

3. I find no features suggesting the need for invocation of the jurisdiction under Sec.482 Cr.P.C. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. The learned Magistrate must consider such application for bail on merits, in accordance with law and expeditiously. The learned counsel for the petitioner submits that the petitioner has only one months leave and the learned Magistrate must make every endeavour to consider his plea of discharge and also consider application for compensation expeditiously.

(R.BASANT, JUDGE)

sj